



STAMP DUTY ON MORTGAGES AND FURTHER ADVANCES

1. INTRODUCTION

- 1.1 This Statement of Practice has been produced in consultation with the Land Registry and the Registry of Deeds. The purpose of the Statement is to ensure a consistent approach in the treatment of mortgages and further advances by the Revenue Commissioners, in charging stamp duty and by the Registries, in registering charges.

2. FIXED SUM MORTGAGES AND DEEDS OF FURTHER CHARGE

- 2.1 Where an instrument acts as a security for a fixed amount the instrument must be stamped with duty to cover the amount stated in the instrument unless duty is not chargeable because the amount does not exceed £20,000.
- 2.2 It is now common practice, in the case of fixed sum mortgages, to make further advances from time to time to the mortgagor. Various instruments are employed to effect these advances. Deeds of further charge are the most common type of instrument used. Heretofore it has been the practice of the Revenue Commissioners to charge duty on such instruments by reference to the amount outstanding on the first mortgage. These further advances are registered

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by the Registries, however, as separate independent charges. In order to bring consistency to the practice of the Revenue Commissioners and the Registries stamp duty will henceforth be charged on these instruments without any reference to amounts outstanding on previous advances. Where the further advance does not exceed £20,000 no stamp duty shall be chargeable. This approach will apply to all instruments presented for stamping from the date of this Statement. It will be adopted whether or not the deed of further charge makes reference to any sum previously advanced or outstanding.

- 2.3 Where mortgages are consolidated, stamp duty is payable on the entire sum secured by the instrument without any allowance for duty already paid. This applies only where an earlier mortgage in respect of which sums remain unpaid is discharged and the outstanding sums are consolidated in a new instrument with a further advance. Although this may appear to impose a double charge to duty on part of the amount secured this outcome is consistent with the position of stamp duty as a tax on instruments not property or transactions. It is also consistent with the treatment of different instruments as separately stampable.

3. UNLIMITED MORTGAGES AND FURTHER ADVANCES

- 3.1 In the case of mortgages which are stated to be for all "present and future advances" or a similar form of wording they must be stamped to cover the highest sum at any time secured unless that amount does not exceed £20,000. Where such an instrument has been stamped to cover a particular amount and a further advance is made there are two possible charge scenarios.

- (a) If the total amount of a further advance and the amount outstanding from previous advances does not exceed the amount for which the mortgage is already stamped to cover, no additional duty is payable.



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- (b) If the total amount of a further advance and the outstanding borrowings exceed the amount for which the mortgage is stamped to cover duty is payable — but only on the excess. Duty is paid on the excess according to the rates applying on the date of the further advance.
- 3.2 In all cases an instrument is liable to duty only in respect of the amount for which it is security. The duty is not effected by amounts which may be advanced under other loan instruments or equitable mortgages. These instruments will be charged separately to duty, unless of course the instruments themselves contain terms interlinking them which may have stamp duty implications.
4. CAPPED MORTGAGES
- 4.1 The Finance Act, 1990, introduced a cap on the duty payable under the Mortgage heading in the schedule of stamp duty charges. The cap applies only to mortgages or further advances made on or after 30 May, 1990. Any mortgage executed after that date which has a duty charge capped at £3,000 is capped for all future advances i.e. no further duty is payable.
- 4.2 Where an instrument has already been stamped with stamp duty of £3,000 or more prior to 30 May, 1990, capping will apply only to the duty payable (if any — see 3.1 (a)) in respect of further advances made after 30 May, 1990 — the date of introduction of this maximum charge.
- 4.3 The Finance Act, 1991, reduced the maximum charge from £3,000 to £500 — effective from 29 May, 1991. In the case of instruments which were already stamped with duty of £500 or more prior to 29 May, 1991, capping will apply only to advances made after 29 May, 1991. This, of course, is subject to Paragraph 4.1 and 4.2



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i.e. if an instrument has already been capped at £3,000 no duty is payable on that instrument in respect of **any** future advances.

- 4.4 Where an instrument has been stamped between the 30 May, 1990 and 28 May, 1991 inclusive with an amount in excess of £2,500 and a further advance is made the instrument will be stamped with additional duty subject to the proviso that the total duty paid since 30 May, 1990 shall not exceed £3,000.

1 June, 1992.